

**RECEIVED
CENTRAL FAX CENTER****MAR 30 2009**ATTORNEY DOCKET NO. DIY-C1
Serial No.: 10/064,439**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant	:	Scott C. Harris	Group Art Unit 3693
Appl. No.	:	10/064,439	
Filed	:	July 14, 2002	
For	:	WEB BASED COMMUNICATION OF INFORMATION WITH RECONFIGURABLE FORMAT	
Examiner	:	J. Greimel	

REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICE ACTIONUnited States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The undersigned herewith requests withdrawal of the finality of the Official Action dated 3/27/2009.

NOTE THAT THIS IS NOT A SUBSTANTIVE RESPONSE TO THE OFFICE ACTION DATED 3/27/2009. A response will be filed in due course.

The last time that the claims in this application were amended was June 14, 2007.

See page 13 of the official action which states:

ATTORNEY DOCKET NO. DIY-C1/SCH
Serial No.: 10/064,439

Applicant's amendment filed June 14, 2007 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

However, the scope of claim 8 was not changed in that amendment. Claim 8 was amended into independent form to include the limitations of claims 1 and 5 therein. Accordingly, claim 8 in the June 14, 2007 amendment has the scope of claim 8 before that amendment was filed.

However, even though the scope of claim 8 was not changed, a wholly new reference to Fisher has been applied against this unamended claim, and the Official action was (improperly) made final.

The rejection states that applicant's amendment necessitated the new ground rejection. However, this is not accurate. In fact, applicant only amended certain claims into independent form, and in so doing, did not change their scope.

MPEP 706.07(a) clearly states that

"a second or any subsequent actions... will not be made final if it includes a rejection, on newly cited art... of any claim not amended by applicant...".

Since claim 8 was not amended to change its scope, it was not "amended by applicant". A new reference was cited by the office. This combination means, per MPEP 706.07(a) that the rejection was improperly made final.

Accordingly, with all due respect, this action was improperly made final. A withdrawal of the finality is respectfully requested.

ATTORNEY DOCKET NO. DIY-C1/SCH
Serial No.: 10/064,439

Please charge any fees due in connection with this response to Deposit Account
No. 50-1387.

Respectfully submitted,

Date: 3/28/2009

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